

DA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ALDEN T. WHITFIELD,

Plaintiff,

-against-

AMERICAN STORAGE AND TRANSPORT,
INC.,

Defendant.
-----X

FEUERSTEIN, District Judge:

ORDER

12-CV-1622(SJF)(GRB)

FILED

IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y



MAY 07 2012



LONG ISLAND OFFICE

On April 3, 2012, pro se plaintiff Alden T. Whitfield ("plaintiff") filed a complaint against his employer, American Storage and Transport, Inc. ("defendant"), alleging violations of Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 ("Title VII") and the Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112-12117, (the "ADA"). The complaint was accompanied by an application to proceed in forma pauperis.

By order dated April 24, 2012, the undersigned granted the application to proceed in forma pauperis, but sua sponte dismissed the complaint pursuant to 28 U.S.C. §§ 1915(e)(2) (B)(ii). Plaintiff was granted leave to file an amended complaint within thirty (30) days of the date of entry of that order. On May 3, 2012, plaintiff filed an amended complaint alleging disability discrimination under the ADA.

Having reviewed the amended complaint, the Court declines to conclude at this stage that the action is frivolous or malicious within the meaning of 28 U.S.C. § 1915. See generally McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cir. 2004). Accordingly, the Court orders service of the amended complaint without prepayment of the filing fee. The Clerk of Court is

directed to cause the United States Marshals Service to serve copies of the summons, complaint and this order upon the defendant without prepayment of fees.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: May 7, 2012
Central Islip, New York